

ARTICLE 9

SECTION 13

TREATMENT OF PROPERTY OF INSTITUTIONALIZED SPOUSES
AND THEIR COMMUNITY SPOUSES,
AND LONG-TERM CARE (LTC) INSURANCE PROPERTY EXEMPTION

1. GENERAL

This section explains the treatment of property for institutionalized spouses and their community spouses effective January 1, 1990 as part of the MediCare Catastrophic Coverage Act, and the property exemption for individuals with State-certified LTC Insurance policies effective July 1, 1994. Refer to Article 9, Section 7, for treatment of property transferred by an institutionalized individual for less than fair market value.

2. DEFINITIONS

- A. Institutionalized Spouse - A person who has been admitted to a nursing facility or medical institution on or after 9-30-89, and applies for Medi-Cal on or after 1-1-90, and is not a member of a CalWORKs Assistance Unit, and is expected to remain in LTC for at least 30 days.
- B. Community Spouse - The spouse of an institutionalized individual who is not in long-term care.
- C. CSRA (Community Spouse Resource Allowance) - The amount that the community spouse is allowed to retain when the institutionalized spouse applies for medical benefits. This may include the combined net market values of the non-exempt community and separate property belongings to either or both the institutionalized and community spouses.

3. MAXIMUM CSRA ALLOWABLE

Effective January 1, 1990, the community spouse is allowed to retain only the Community Spouse Resource Allowance (CSRA). For a current listing of CSRA, see Appendix II-1-B. The maximum CSRA is the greatest of the chart value or:

- A. The amount granted through fair hearing. Fair hearings may be requested by either spouse.
- B. An amount established by a court order for the support of the community spouse and family members. If a court order for support is sought by the community spouse and verification is provided, an application shall be pending for more than 45 or 60 days, if necessary.

4. COMPUTATION OF THE CSRA

The couple's net market value of the non-exempt community and separate property is combined and totaled as of the date of application for Medi-Cal. That total will be compared to the maximum CSRA. If the total is less than or equal to the maximum CSRA, then the CSRA shall be that amount. If the total is more than the maximum CSRA, then the CSRA shall be the maximum CSRA, and the amount of excess shall be included in the property reserve of the institutionalized spouse.

After the Community Spouse Resource Allowance (CSRA) has been determined, new non-exempt property acquired by the community spouse and held in his/her name only shall not be considered available to the institutionalized spouse.

CSRA

EXAMPLE:

Mr. and Mrs. Harvest had \$102,580 when Mr. Harvest had a stroke and was hospitalized. Mr. Harvest was transferred to a nursing facility on 10-15-89. Of the \$102,580, \$52,580 was Mrs. Harvest's inheritance from the death of her parents. She has maintained this amount separately for 20 years.

Mrs. Harvest is applying for Medi-Cal for Mr. Harvest on 3-1-90, and Mr. Harvest has spent \$38,000. Is Mr. Harvest's "property" eligible?

ANSWER:

Mr. Harvest is eligible.

All property available on 3-1-90 is combined:

\$52,580	(Mrs. Harvest's inheritance)
<u>+ 12,000</u>	(Amount remaining after \$38,000 spent)
\$ 64,580	
- 62,580	(Maximum CSRA for 1990)
<u>- 2,000</u>	(Property limit for 1)
\$ -0-	(Excess Property)

Mr. Harvest is eligible and has 90 days to remove his name from \$10,000. (\$52,580 is already in Mrs. Harvest's name.)

5. RELEASE FROM LONG-TERM CARE

If an institutionalized spouse is released from a long-term care facility for at least 24-hours, and then, re-enters LTC, a new CSRA shall be determined for the community spouse, at the time of re-entry.

6. TRANSFER PERIOD

- A. Any property considered to be part of the CSRA must be in the name of the community spouse. When the couple's property reaches the maximum CSRA plus \$2,000 (property limit for one), eligibility may be established for the institutionalized spouse. A transfer period will be allowed from the date of the approval action being taken through the end of the month in which 90 days have elapsed. This transfer period may be extended through the end of the month in which a court enters an order necessary to accomplish such transfers. ACWDL 90-01 Section 50490.7 & SDHS Clarification
- B. During the transfer period, property included in the CSRA shall not be considered available to the institutionalized spouse.
- C. At the end of the transfer period, the net market value of all property remaining in the name of the institutionalized spouse or both of the spouses shall be considered 100% available to the institutionalized spouse and included in the property reserve.
- D. Eligibility cannot be denied if there is excess property and undue hardship. Undue hardship exists when:
- 1) Except for such excess property, the institutionalized spouse is otherwise eligible; and,
 - 2) He/She is unable to obtain medical care without Medi-Cal; and,
 - 3) The community spouse's whereabouts are unknown; or,
 - 4) There has been a break in marital ties and the community spouse refuses to cooperate.

7. EXCEPTIONS TO REGULAR MEDICAL PROPERTY INCLUSIONS

Jewelry, regardless of its value, is exempt. The provision applies only to institutionalized and community spouses.

8. PROPERTY ASSESSMENT

A community spouse or institutionalized spouse or their representatives may request a property assessment if the institutionalized spouse was institutionalized on or after September 30, 1989, and the application is taken on or after 1-1-90. If an assessment is requested, the client will be given an application for Medi-Cal and both the assessment and application will be completed by the district.

- A. The application form, "Medi-Cal Property Assessment Application" (MC 176 PA-A), and the "Property Assessment Statement of Facts" (MC 210 PA) and relevant verification will be returned to the department, along with the Medi-Cal application. The assessment interview shall be completed within 45 days from the date that the MC 176 PA-A is signed.

- B. If verification is not provided by the assessment applicant, the County shall use the information provided on the MC 210 PA and document on the "Property Worksheet/Assessment" (MC 176 PA) that verification of value was not provided.
- C. The worker will explain the following:
 - 1) Medi-Cal General Property Limitations for all Medi-Cal applicants (MC Information Notice 007).
 - 2) How to reduce excess property.
- D. Copies of the "Medi-Cal Property Assessment Application" (MC 176 PA-A) and the "Property Worksheet/Assessment for Institutionalized Spouses." (MC 176 PA) will be provided to each spouse and/or their representatives. The original shall be retained by the department.
- E. The date of the Property Assessment will be entered on the "L" line on the LMB document, along with the date of entry into LTC.

9. LTC PROPERTY EXEMPTION

- A. Effective July 1, 1994 individuals with State-certified LTC insurance policies are eligible for an exemption of property equal to the amount of benefits paid under such a policy. To qualify for this exemption, the applicant/beneficiary shall provide verification listing the amount of qualifying benefits that has been paid to-date.

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Example: A LTC client applies for Medi-Cal on 1/16/96. The total value of his non-exempt property is \$49,900. The client provides verification of \$48,000 paid for LTC services under his LTC insurance policy with State-certified ABC Insurance Company.

\$49,900.00	(non-exempt property)
- \$48,000.00	(qualified LTC property exemption)
\$ 1,900.00	(net value toward property reserve)

This LTC applicant's countable non-exempt property is within the property limit for one person.

- B. Generally, an individual with a LTC insurance policy, which provides coverage for a minimum of one year and a maximum of five years, will not apply for Medi-Cal until the policy benefits are exhausted. However, in some instances, an individual may require acute hospitalization or some other services not covered by his/her insurance policy and will apply early. In these cases, the individual will receive an exemption equal to the benefits amount that has been paid to the date of application and they have to spenddown other excess property, if any, before eligibility may be established.

- C. When a LTC person is eligible for Medi-Cal and is also covered by a LTC insurance policy, an appropriate Other Health Coverage (OHC) code for the LTC insurance carrier has to be entered on the case record and a complete DHS 6155 has to be sent to State Department of Health Services to assure that Medi-Cal is not paying for services for which the insurance carrier is liable. Completion of a DHS 6155 is not required for a beneficiary who has an indemnity policy; however, the per diem payments to the beneficiary are considered income and included in the computation of share-of-cost.
- D. If a beneficiary happens to acquire additional property after establishing eligibility for Medi-Cal such as proceeds from the sale of his/her former residence, lotto winnings, inheritance, etc., the amount of additional benefits paid under the State-certified insurance policy should be verified to determine how much of the newly acquired non-exempt property can be exempted.

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